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10  
11 **IN THE UNITED STATES DISTRICT COURT**  
12 **FOR THE DISTRICT OF ARIZONA**

13 C.M., on her own behalf and on behalf of  
14 her minor child, B.M.; L.G., on her own  
15 behalf and on behalf of her minor child,  
B.G.; M.R., on her own behalf and on  
16 behalf of her minor child, J.R.; O.A. on her  
own behalf and on behalf of her minor  
17 child, L.A.; and V.C., on her own behalf  
and on behalf of her minor child, G.A.,

18  
19 Plaintiffs,

20 v.

21 United States of America,

22 Defendant.

Case no. 2:19-CV-05217-SRB

**DEFENDANT'S RESPONSE TO  
PLAINTIFFS' SECOND MOTION TO  
EXTEND THE DEADLINE FOR  
COMPLETION OF FACT  
DISCOVERY (ECF 270)**

23  
24 On August 15, 2022, the parties moved for an extension of the fact discovery  
25 deadline for the specific and limited purposes of completing the depositions described  
26 therein, and for an extension of the deadline for the parties to engage in good faith  
27 settlement talks. (*C.M.* ECF 269; *A.P.F.* ECF 272).  
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1 Plaintiffs also separately filed a motion for an extension of thirty-two (32) days –  
2 from August 15, 2022 to September 16, 2022 – to allow the parties time to meet and  
3 confer and, if necessary, for Plaintiffs to raise objections with the Court, relating to  
4 Defendant’s recently-served responses to the amended discovery requests served by  
5 Plaintiffs on July 18, 2022. (*C.M.* ECF 270; *A.P.F.* ECF 273). The United States  
6 respectfully submits this response to Plaintiffs’ motion, to provide the Court additional  
7 background and information in deciding whether Plaintiffs have established good cause  
8 for the relief sought.  
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11 Pursuant to the Amended Case Management Order, all written discovery –  
12 interrogatories, requests for production, and requests for admission – were to be served at  
13 least 45 days before the fact discovery deadline, or no later than May 31, 2022. (*C.M.*  
14 ECF 144; *A.P.F.* ECF 144). Plaintiffs sought an extension of that deadline to June 7,  
15 2022, which the United States did not oppose. (*C.M.* ECF 200; *A.P.F.* ECF 185). The  
16 Court granted Plaintiffs’ motion for an extension. (*C.M.* ECF 201; *A.P.F.* ECF 186).  
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19 On June 7, 2022, Plaintiffs served their final written discovery requests, consisting  
20 of requests for production, interrogatories, and requests for admission. The government  
21 promptly sent Plaintiffs a letter, on June 9, 2022, noting its position that Plaintiffs’  
22 written discovery requests, in a departure from prior discovery requests, were not  
23 coordinated to ensure those requests relating to policy-related issues common to both  
24 actions were uniform and jointly served. Although at that point the deadline for serving  
25 written discovery had passed, the government offered Plaintiffs an opportunity to amend  
26 the written discovery requests served on June 7, 2022.  
27  
28

1           On June 16, 2022, Plaintiffs responded that they did not agree with the  
2 government's position and would not serve amended discovery requests. However, two  
3 weeks later, on July 1, 2022, Plaintiffs offered their proposal for revising the written  
4 discovery requests. After further discussions, an agreement was reached on July 11,  
5 2022. A week later, on July 18, 2022, Plaintiffs served their amended written discovery  
6 requests. On August 12, 2022, the United States served its responses to these amended  
7 written discovery requests, before the August 15, 2022 deadline for completion of fact  
8 discovery and less than thirty (30) days following service of Plaintiffs' amended requests.  
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11           As Plaintiffs' written discovery requests were being discussed, the parties also  
12 engaged in discussions regarding extending the July 15, 2022 fact discovery deadline to  
13 complete certain limited and specific discovery items. The parties jointly moved the  
14 Court for an extension on July 14, 2022. (*C.M.* ECF 260; *A.P.F.* ECF 256). On July 15,  
15 2022, the fact discovery deadline was extended from July 15, 2022 to August 15, 2022 to  
16 allow the parties to complete certain specific and limited discovery. (*C.M.* ECF 262;  
17 *A.P.F.* ECF 258). Among the reasons stated for the extension of the fact discovery  
18 deadline from July 15 to August 15 was to "provide Defendant time to respond to a  
19 revised set of requests, which will be served shortly." (*C.M.* ECF 260; *A.P.F.* ECF 256).  
20 The joint motion by the parties on July 14 makes clear that "[t]he Parties will seek to  
21 resolve any disputes related to the above fact discovery, or seek court intervention if  
22 necessary, by the [August 15, 2022] amended fact discovery deadline." *Id.*  
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27           Plaintiffs now seek to extend the August 15, 2022 fact discovery deadline by 32  
28 days (until September 16, 2022), apparently to allow more time *in case* there may be any

1 disputes relating to the final amended written discovery requests served by Plaintiffs on  
2 July 18, 2022.<sup>1</sup> However, the August 15 deadline to, among thing other things, seek  
3 court intervention (if necessary) to resolve any disputes regarding Plaintiffs' final  
4 amended written discovery requests was a deadline that Plaintiffs agreed to knowing that  
5 their amended discovery requests still needed to be served on the government. While the  
6 parties were able to amicably resolve their disagreement as to Plaintiffs' written  
7 discovery requests served on June 7, 2022, Plaintiffs would not be in this position of  
8 seeking additional time had their final written discovery requests been amended and  
9 served on the government earlier.  
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12 The United States respectfully submits that Plaintiffs have not established good  
13 cause for the relief sought in their motion, especially insofar as they seek an additional 32  
14 days to raise any disputes with the court. Such time period is far longer than that which  
15 was provided in the prior case management orders. *See* Amended CMO ¶4a (*C.M.* ECF  
16 144; *A.P.F.* ECF 144). Accordingly, as communicated to Plaintiffs, if in fact an actual  
17 dispute arises relating to the government's responses to Plaintiffs' amended final  
18 discovery requests, it would be more productive that the parties then address the dispute  
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24 <sup>1</sup> Prior to their motion, Plaintiffs did not articulate to the government any actual or  
25 potential dispute, including in their supposed request for a "meet and confer." In their  
26 motion, Plaintiffs state that they "requested to meet and confer with Defendant regarding  
27 the sufficiency of these responses and objections during the week of August 15, 2022, but  
28 have not received a response to this request." However, Plaintiffs' request came via  
email on the evening of Friday, August 12, 2022, at 10:39 p.m. The government did in  
fact respond on Monday, August 15, 2022, prior to Plaintiffs' filing of the motion, stating  
that if there is in fact a dispute the parties can address it at that time. In the government's  
view, an offer to meet and confer without an identified dispute does not make sense.

1 at that time, and, if necessary, consider whether there are sufficient grounds to raise the  
2 dispute with the court after the August 15, 2022 deadline.

3  
4 Dated: August 16, 2022

Respectfully Submitted,

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7 Director, Torts Branch

8 s/Phil MacWilliams

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15  
16 **CERTIFICATE OF SERVICE**

17 I hereby certify that on August 16, 2022, I electronically transmitted the attached  
18 document to the Clerk's Office using the CM/ECF System for filing and transmittal of a  
19 Notice of Electronic Filing to all CM/ECF registrants.

20  
21 s/Phil MacWilliams

PHILIP D. MACWILLIAMS

22 Attorney for United States of America  
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